

**Mayor**

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February 21, 2008

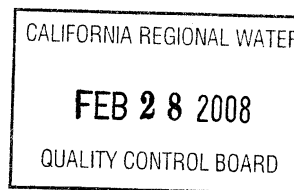
Mr. Bruce Wolfe

Executive Officer

San Francisco Bay Regional Water Quality Control Board

1515 Clay Street, Suite 1400

Oakland, CA 94612



Dear Mr. Wolfe:

Subject: City of Santa Clara's Comments on the Tentative Order for the Municipal Regional Stormwater National Pollutant Discharge Elimination System Permit (Draft Permit)

The City of Santa Clara is committed to improving the quality of urban runoff that flows into its storm drain system, creeks, and the San Francisco Bay. The City is a co-permittee of the Santa Clara Valley Urban Runoff Pollution Prevention Program (SCVURPPP), which has received Environmental Protection Agency (EPA) First Place National Stormwater Management Awards in both 1993 and 2006, as well as several other national awards. The EPA noted that "SCVURPPP has been a leader in the development and evolution of similar programs and permits across the country" in an audit of its monitoring and assessment program.

The fundamental principle of previous stormwater permits, as issued by the Regional Water Quality Control Board (RWQCB), was that jurisdictions were to implement stormwater pollution prevention measures to the "maximum extent practicable". Intertwined in this standard is reasonableness, both in effectiveness and fiscal ability. Contrary to this established standard is the proposed draft permit that is unnecessarily prescriptive and fiscally unachievable in many of its provisions. Our City does not have the operating revenue or capital reserves to fund many of the requirements proposed in the draft permit and would face Proposition 218 requirements to secure funding. Given the uncertainties of voter funding, State or Federal funding will be needed to comply with many provisions.

Examples of provisions that require beyond the maximum extent practicable include Sections C.11 and C.12. The diversion of dry weather and first flush flows to the sanitary sewer requires permittees to select 20% of the existing stormwater pump stations and evaluate drainage characteristics and the feasibility of diverting flows to sanitary sewers. No analysis has been conducted to determine the effects that these requirements will have on the POTW's (Publicly Owned Treatment Works). The POTW's may not be adequately sized to accommodate these increased flows. Additional funding not currently available, would be necessary to expand POTW treatment capacity.

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Provision C.10 will require the City to install full capture trash devices and enhanced trash management control measures covering at least 10 percent of our urbanized area. The City estimates that the installation of these measures will cost in excess of \$300,000 to install, and at least that amount to maintain the devices over the course of the five-year permit. In some cases full capture trash devices may be the most effective mitigation measure, but other trash hotspot areas may be cleaned more cost effectively by other means. The requirement levels appear arbitrary, are inflexible, and do not take into consideration the effectiveness of our street sweeping program.

Section C.3 of the draft permit requires the City to treat stormwater on street and sidewalk rehabilitation projects over 10,000 square feet. It is not practical or cost effective to treat existing streets and sidewalks. Fewer streets would be rehabilitated each year, causing the likely decline of streets over time. Area constraints of our urban environment would require the installation of in-ground treatment devices. These devices are costly and maintenance intensive considering the effort required to maintain an efficient street/sidewalk network.

A second Section C.3 provision requires the threshold for Regulated Projects from 10,000 square feet to shift to 5,000 square feet of impervious surface. The City is working diligently to meet the current requirement and would be challenged to adequately review the additional projects at the current staffing levels. In addition, the 5,000 square foot threshold will push some single-family home developments under the status of Regulated Projects. These projects are much more difficult to monitor and steer toward compliance because single-family homeowners who are applying for permits do not have a proficient level of knowledge regarding stormwater regulations.


Monitoring requirements throughout the draft permit are onerous and expensive. In many instances the monitoring requirements are on pollutants of concern beyond our ability to regulate. Air deposition of pollutants, mercury from brake pads and the application of pesticides by State certified contractors are a short list of pollutants that are outside of the purview of our City. It is not reasonable or effective, given our limited resources and current responsibilities to require the City to monitor these activities.


Finally, Section C.7 - Public Information and Outreach provisions has requirements that discourage individual co-permittees from conducting regional training and education events. As written, co-permittees receive only partial credit for regional events. The current broad-based watershed approach should continue to be encouraged.

The City of Santa Clara will continue to be a leader in stormwater pollution prevention. The City values working collaboratively with the Regional Water Quality Control Board (RWQCB) and other agencies with the goal of implementing programs "to the maximum extent practicable". However, the City of Santa Clara finds that many of the proposed requirements of the draft permit are too prescriptive, impractical and have no funding source at our level.

The City has advised its State legislators in writing of our specific concerns regarding the proposed draft permit and requested that they take appropriate action. It is the City's hope that the lawmakers and RWQCB take our constructive comments and make amendments that are practical in terms of efficiency and fiscal responsibility. The City of Santa Clara is committed to doing the "maximum extent practicable". If you have any questions regarding the City of Santa Clara's position on the draft permit, please contact Richard J. Mauck, Director of Streets & Automotive Services at (408) 615-2099.

Sincerely,


Patricia M. Mahan
Mayor


Jennifer Sparacino
City Manager

cc: League of California Cities
Santa Clara County Cities Association
Santa Clara Valley Urban Runoff Pollution Prevention Program
Santa Clara City Council